

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).NO. 1121 OF 2015 (M)

PETITIONER(S):

**M.P. MOHAMMED KURIKKAL,
PROPRIETOR, M/S.KURIKKAL EXPORTS PVT. LTD.,
(M/S.KURIKKAL OVERSEAS EXPORTS), "SUHANA",
PANDIKKAD ROAD, MANJERY, MALAPPURAM.**

BY ADV. SRI.C.K.SREEJITH.

RESPONDENT(S):

- 1. THE ASSISTANT COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, WELLINGTON ISLAND, COCHIN -682 003.**
- 2. THE DEPUTY COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, WELLINGTON ISLAND, COCHIN - 682 003.**
- 3. THE DEPUTY COMMISSIONER OF CUSTOMS (DRAW BACK),
CUSTOM HOUSE, WELLINGTON ISLAND, COCHIN -682 003.**
- 4. THE COMMISSIONER (APPEALS),
CUSTOM HOUSE, WELLINGTON ISLAND, COCHIN - 682 003.**
- 5. THE ASSISTANT COMMISSIONER,
CUSTOMS PREVENTIVE DIVISION, 7TH FLOOR,
CENTRAL REVENUE BUILDINGS, MANANCHIRA,
CALICUT - 673 001.**

**BY ADVS. SRI.JOHN VARGHESE, SC.
SRI.THOMAS MATHEW NELLIMOOTTIL, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P-1: THE TRUE COPY OF APPEAL PETITION AGAINST F.NO.S.34/10/97
DBK - CUS DATED 19.05.2004.
- EXT.P-2: THE TRUE COPY OF THE APPEAL AGAINST F.NO.S34/9 (4)/2005
DBK - CUS DATED 19.02.2005.
- EXT.P-3: THE TRUE COPY OF THE LETTER DATED 29.01.2014.
- EXT.P-4: THE TRUE COPY OF THE ORDER OF ATTACHMENT BEARING
NO.C.NO.VIII/46/44/2005 - ARR. DATED 02.12.2014.
- EXT.P-5: THE TRUE COPY OF THE PETITION.
- EXT.P-6: THE TRUE COPY OF THE ACKNOWLEDGMENT ENTRY IN THE
LOCAL DELIVERY BOOK OF THE AUTHORISED SIGNATORY OF
THE PETITIONER.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1121 OF 2015

Dated this the 15th day of January, 2015

J U D G M E N T

The petitioner, who had obtained various amounts by way of duty draw back, pursuant to exports effected by him of readymade garments to middle east countries, was subsequently served with notices from the respondent customs authorities, seeking recovery of the amounts paid to him by way of draw back. The adjudication proceedings under the Act culminated in the demands against him him being confirmed. Thereafter, the petitioner preferred Ext.P5 representation before the 3rd respondent seeking permission to pay the entire amounts due to the respondents in instalments. The said representation was preferred in the wake of Ext.P4 attachment notice that was received by the petitioner. In the writ petition, the only prayer urged by the petitioner is for the grant of instalments to effect payment of the entire amounts due to the respondents.

2. I have heard Sri.C.K.Sreejith, the learned counsel for the petitioner and Sri.John Varghese the learned Standing counsel for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the total amount due from the petitioner as on 15.01.2015 is

Rs.33,04,934/-. The said amount comprises of the draw back amount paid in excess to the petitioner, and interest thereon, for the period from the date of issuance of the notice for recovery till date. Taking into account the plea of financial hardship urged by the petitioner, I dispose the writ petition with the following directions:

i) If the petitioner effects payment of the amount of Rs.33,04,934/- in 10 equal and successive monthly instalments commencing from 15.02.2015, then the recovery steps initiated against him, including further proceedings pursuant to Ext.P4, shall be kept in abeyance.

ii) It is made clear that if the petitioner commits a default in respect of any of the instalments, he will lose the benefit of this judgment and the respondents will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

